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Plaintiff SNMP Research, Inc. (“SNMP Research”) respectfully submits this reply in support of its Motion to Compel Discovery Responses (“Motion” or “Mot.”; Dkt. 88, 88-1).<sup>1</sup>

## **I. INTRODUCTION**

The posturing and inflammatory language by Defendants Broadcom Inc. and Brocade Communications Systems LLC (collectively, “Defendants”) in their Opposition (Dkt. 94) cannot disguise the fact that Defendants have not (i) produced a single document in discovery in this matter to date, (ii) provided any substantive responses to Plaintiff’s interrogatories and document requests, or (iii) answered even a single request for admission. Plaintiff served discovery in this case over nine months ago, on December 26, 2020, and it has been over three months since the Court issued its order denying Defendant’s Motion to Stay and for a Protective Order on June 25, 2021. (Dkt. 75). Since June 25<sup>th</sup>, Plaintiff and Defendants have held four (4) lengthy meet and confer calls which resulted in Defendants promising to supplement their discovery responses by August 27, 2021. Defendants have not lived up to that promise--or even come close--as it is now more than one month past the date by which Defendants promised to provide substantive responses. The Federal Rules of Civil Procedure require an actual response, not just a promise to do so. Fed. R. Civ. P., Rule 26(e)(1)(A)), 34(b)(2)(B)). Even though Defendants’ Opposition again promised to serve discovery responses “in short order,” Defendants have not done so as of the filing of this Reply and, therefore, Plaintiff’s Motion is not moot.<sup>2</sup>

As for Defendants’ contention that Plaintiff has not met and conferred enough, it is simply

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<sup>1</sup> Plaintiff’s citations herein to “Motion” or “Mot.” are to the brief in support of the Motion found at Dkt. 88-1.

<sup>2</sup> Defendants’ reliance on *Collins v. Mountain Laurel Assurance Co.*, 2011 WL 1196804 (E.D. Tenn. March 29, 2011) for the contention that a “commitment to provide discovery responses and willingness to do so within a reasonable time moot this motion” is misplaced. In *Collins*, Magistrate Judge Shirley determined the motion to compel was moot after the movant advised the Court that the non-moving party had recently responded to every discovery request but one and the non-moving party then agreed, before the Court, to respond to the final outstanding request by a set date. *Id.* at \*1. In this case, Defendants have not responded substantively to a single request.

incorrect. Plaintiff met and conferred with Defendants four times, and the result has been zero documents produced, zero substantive responses to interrogatories and requests for admission, and a reneged promise to provide substantive responses on a date certain. Defendants' argument that additional meet and confers, in addition to the four already held, are required every time Defendants fail to live up to a promise they made would only serve Defendants' obvious goal of delaying discovery indefinitely.

Plaintiff respectfully requests the Court to compel Defendants to provide substantive responses to Plaintiff's outstanding discovery requests within one week of the Court's order.

Respectfully submitted,

Dated: September 29, 2021

By: /s/ Cheryl G. Rice

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